

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

CONNETICS CORPORATION and STIEFEL  
RESEARCH AUSTRALIA PTY. LTD.,

Plaintiffs,

V.

PENTECH PHARMACEUTICALS, INC.,

Defendant.

Civil Action No. 08-C-2230

Judge Moran  
Magistrate Judge Valdez

## ANSWER TO COUNTERCLAIMS

Plaintiffs, Connetics Corporation and Stiefel Research Australia Pty. Ltd. (collectively “Connetics”), answer the Counterclaims of Defendant and Counterclaim Plaintiff, Pentech Pharmaceuticals, Inc. (“Pentech”), as follows:

1. Defendant, Counterclaim-Plaintiff, incorporates by reference herein its Answer and Affirmative Defenses to the Complaint.

**RESPONSE:** Connetics denies Pentech's Affirmative Defenses, and incorporates by reference the allegations in the Complaint.

## THE PARTIES

2. Counterclaim-Plaintiff Pentech is a corporation organized under the laws of the State of Illinois, having its principal place of business at 315 [sic, 3315] West Algonquin Road, Suite 310, Rolling Meadows, Illinois 60008.

**RESPONSE:** On information and belief, Connetics admits the allegations in Paragraph

2.

3. On information and belief, Counterclaim-Defendants, Connetics Corporation is a Delaware corporation having a principal place of business at 3160 Porter Drive, Palo Alto, California 94304.

**RESPONSE:** Admitted.

4. On information and belief, Connetics Corporation is a wholly-owned subsidiary of Stiefel Laboratories, Inc., a Delaware corporation having a principal place of business at 255 Alhambra Circle, Suite 1000, Coral Gables, Florida 33134.

**RESPONSE:** Admitted.

5. On information and belief, Stiefel Research Australia Pty, Ltd. ("Stiefel Australia") is a corporation organized and existing under the laws of the State of Victoria, Australia, having its principal place of business at 8 Macro Court, Rowville, Victoria 3168, Australia.

**RESPONSE:** Admitted.

6. On information and belief, Stiefel Australia is a wholly-owned subsidiary of Stiefel Laboratories, Inc.

**RESPONSE:** Admitted.

7. On information and belief, Counterclaim-Defendants allege that they are the owner of U.S. Patent No. 6,126,920 ("the '920 patent"), including the right to sue and collect damages.

**RESPONSE:** Denied. Connetics alleges that Stiefel Australia is the assignee and owner of the '920 patent.

8. On information and belief, Stiefel Australia is the owner by assignment of all right, title and interest in the U.S. Patent No. 6,126,920, including the right to sue and collect damages.

**RESPONSE:** Admitted.

### **JURISDICTION AND VENUE**

9. These counterclaims constitute an action for a declaratory judgment under 28 U.S.C. §§ 2201 and 2202, and arise under the Patent Laws of the United States, Title 35, United States Code.

**RESPONSE:** Admitted that Pentech has alleged declaratory judgment counterclaims arising under 28 U.S.C. §§ 2201 and 2202 and the Patent Laws of the United States, Title 35, United States Code.

10. This Court has jurisdiction of these counterclaims under 28 U.S.C. §§ 1331 and 1338(a) and the Patent Laws of the United States, Title 35, United States Code.

**RESPONSE:** Admitted.

11. In the Complaint, Counterclaim-Defendants allege that they are the owner of the '920 patent and allege that Counterclaim-Plaintiff has infringed the '920 patent.

**RESPONSE:** Denied. Connetics alleges that Stiefel Australia is the assignee and owner of the '920 patent, and that Pentech has and will infringe the '920 patent.

12. As evidenced by the Complaint and this pleading in response thereto, an actual controversy exists between the parties with respect to the alleged infringement of the '920 patent.

**RESPONSE:** Admitted.

#### **COUNT I**

13. The '920 patent is not infringed.

**RESPONSE:** Denied.

#### **COUNT II**

14. The '920 patent would not be infringed by a product made in accordance with ANDA No. 90-133 and would not be infringed by Defendant's commercial manufacture, use, offer for sale, and or sale of its product covered by ANDA No. 90-133.

**RESPONSE:** Denied.

#### **COUNT III**

15. The '920 patent is invalid under one or more provisions of 35 U.S.C. § 101, *et seq.*

**RESPONSE:** Denied.

#### **COUNT IV**

16. The '920 patent is invalid under 35 U.S.C. § 102.

**RESPONSE:** Denied.

#### **COUNT V**

17. The '920 patent is obvious over the prior art under 35 U.S.C. § 103 and, thus, is invalid.

**RESPONSE:** Denied.

**REQUEST FOR RELIEF**

WHEREFORE, Connetics respectfully requests:

- (a) Judgment denying Pentech all requested relief and dismissing the Counterclaims with prejudice;
- (b) Judgment preliminarily and permanently enjoining Pentech and its officers, agents, servants and employees, and those acting in privity or concert with them, from engaging in the commercial manufacture, use, offer to sell, or sale within the United States, or importation into the United States, of Pentech's clobetasol propionate foam 0.05%;
- (c) Judgment awarding Connetics its reasonable attorneys' fees, together with interest, and costs of the action; and
- (d) Such other and further relief as this Court may deem just and proper.

Dated: May 22, 2008

Respectfully submitted,

CONNETICS CORPORATION and  
STIEFEL RESEARCH AUSTRALIA PTY. LTD.

By: s/ Peter S. Roeser  
One of Their Attorneys

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**CERTIFICATE OF SERVICE**

I, PETER S. ROESER, hereby certify that on the 22nd day of May, 2008, a copy of the foregoing **ANSWER TO COUNTERCLAIMS** was electronically filed with the Clerk of the Court using CM/ECF and a true and correct copy was served by electronic filing notification via ECF to the following:

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